

Credit CARD Act of 2009

H.R.627 [111th]

Credit Card Accountability Responsibility and Disclosure Act of 2009
or the Credit CARD Act of 2009 - (Sec. 2) Authorizes the Board of
Governors of the Federal Reserve System (Federal Reserve Board) to
issue rules and publish model forms to implement this Act.

(Sec. 3) Makes this Act effective nine months after its enactment.

Title I: Consumer Protection

- (Sec. 101) Amends the Truth in Lending Act (TILA), with respect to
credit card accounts under an open end consumer credit plan, to require
a creditor to provide written notice not later than 45 days prior to
the effective date of: (1) any increase in an annual percentage rate
(APR); and (2) any significant change, as determined by rule of the
Federal Reserve Board, in the terms of the cardholder agreement
(including an increase in fees or finance charges).

Prohibits a
creditor from increasing any annual percentage rate (APR) of interest,
fee, or finance charge applicable to the existing balance on an open
end consumer credit card account unless specified conditions are met.

Allows

a creditor to increase an APR, fee, or finance charge only if the
increase is due solely to: (1) expiration of a specified time period
(e.g. promotional period) disclosed clearly and conspicuously to the
consumer before commencement of the time period; (2) a change in index
not under the creditor's control; (3) payment not received during the
30-day grace period after the due date; or (4) completion of a workout
or temporary hardship arrangement, or the consumer's failure to comply
with such an arrangement. Prohibits any APR increase relating to such
an arrangement from exceeding the APR applicable to the particular
category of transactions on the day before the effective date of the
arrangement.

Prohibits a creditor from changing the terms
governing repayment of an outstanding balance; but permits the creditor
to provide the obligor with specified repayment methods.

Requires

a creditor that increases the APR based upon factors including the obligor's credit risk, market conditions, or other factors to: (1) consider changes in such factors in subsequently determining whether to reduce the APR for such obligor; and (2) reduce the APR when a review indicates a reduction.

Declares that no increase in any APR, fee, or finance charge, with certain exceptions, shall be effective before the end of the one-year period beginning on the date on which the account is opened.

States that, in the case of a promotional rate, no written notice of an increase in the APR shall be effective before the end of a six-month period beginning from the date the promotional rate takes effect.

(Sec. 102) Prohibits imposition of a finance charge, with certain exceptions, upon a credit card account balance that is based on balances for days in billing cycles preceding the most recent billing cycle (double billing cycle) as a result of the loss of any grace period. Prohibits penalties for on-time payments.

Prohibits the charge of an over-the-limit fee unless the consumer expressly permits the creditor to complete the relevant transaction (opt-in).

Allows imposition of an over-the-limit fee only once during a billing cycle. Prohibits its imposition more than once in two subsequent billing cycles with respect to such excess credit, unless the consumer: (1) has obtained an additional extension of credit in excess of the credit limit during any such subsequent cycle; or (2) reduces the outstanding balance below the credit limit as of the end of such billing cycle.

Prohibits a creditor from imposing a separate fee related to the method of payment (by mail, electronic transfer, telephone authorization, or other means), unless the payment involves an expedited service by the creditor's service representative.

Requires any penalty fee or charge to be reasonable and proportional to the omission or violation involved.

Directs

the Federal Reserve Board to establish standards for assessing whether the amount of any penalty fee or charge is reasonable and proportional to the omission or violation to which the fee or charge relates.

(Sec.

103) Limits the use of the term "fixed," in conjunction with an APR or applicable interest rate, to a rate that will not change or vary for any reason over the period specified clearly and conspicuously in the terms of the account.

(Sec. 104) Revises requirements governing crediting of payments.

Requires

a card issuer, upon receipt of payment, to apply amounts in excess of the minimum payment amount first to the balance bearing the highest rate of interest, and then to each successive balance bearing the next highest rate of interest, until the payment is exhausted.

Requires

a creditor to allocate the entire amount paid in excess of the minimum payment to a balance on which interest is deferred during the last two billing cycles immediately preceding the expiration of the period during which interest is deferred.

Prohibits a card issuer from

imposing any late fee or finance charge for a late payment if: (1) the issuer makes a material change in the mailing address, office, or procedures for handling cardholder payments; and (2) such change causes a material delay in the crediting of payment made during the 60-day period following the date on which such change took effect.

(Sec.

105) Prescribes a standard for the initial issuance of subprime or "fee harvester" cards (accounts requiring first-year fee payments in excess of 25% of the total amount of credit authorized). Prohibits payment of any fee from the credit made available by the card (other than any late fee, over-the-limit fee, or any fee for a payment returned for insufficient funds).

(Sec. 106) Requires the payment due date to be the same day each month, or the next business day if such date falls on a weekend or holiday.

Revises requirements for the timing of payments and the grace period. Requires each periodic statement of payment due to be mailed no later than 21 days before the payment due date.

(Sec. 107) Revises civil penalties for creditor noncompliance with TILA. Includes in such penalties twice the amount of any finance charge in connection with a transaction, between \$500 and \$5,000 (or a higher amount in the case of an established pattern or practice of noncompliance), in the case of an individual action relating to an open end consumer credit plan that is not secured by real property or a dwelling.

(Sec. 109) Requires a card issuer to consider the ability of the consumer to make required payments as a prerequisite to opening any consumer credit card account, or increasing any credit limit.

Title II: Enhanced Consumer Disclosures - (Sec. 201) Revises and expands requirements for mandatory minimum payment disclosures a creditor must furnish.

Directs the Federal Reserve Board to issue guidelines, by rule, for the establishment and maintenance by creditors of a toll-free telephone number for purposes of providing information about accessing credit counseling and debt management services.

(Sec. 202) Revises requirements relating to late payment deadlines.

Requires specified disclosures relating to increases in interest rates for late payments.

States that the date on which the obligor makes a payment at the local branch of a creditor financial institution shall be considered to be the date on which the payment is made for purposes of determining whether a late

fee or charge may be imposed due to the failure of the obligor to make payment on or before the due date for such payment.

(Sec. 203)

Requires a card issuer that has changed or amended any term of the account since the last renewal that has not been previously disclosed to make such a disclosure to the consumer by a certain deadline.

(Sec.

204) Requires creditors to post on an Internet site the written agreement between the creditor and the consumer for each open-end consumer credit plan.

(Sec. 205) Amends the Fair Credit

Reporting Act to require any advertisement for a free credit report to disclose prominently that free credit reports are available under federal law at AnnualCreditReport.com (or other authorized source).

Title III: Protection of Young Consumers

- (Sec. 301) Amends TILA to prohibit extensions of credit to consumers under age 21, unless the consumer has submitted a written application that meets specified requirements.

Requires any such application

to be signed by a cosigner, including the parent, legal guardian, spouse, or any other individual who has attained the age of 21 having a means to repay debts incurred by the consumer in connection with the account.

(Sec. 302) Amends the Fair Credit Reporting Act to permit a consumer reporting agency to furnish a consumer report regarding credit or insurance transactions that are not initiated by the consumer only if the report does not contain a date of birth that shows that the consumer has not attained the age of 21, or, if the date of birth on the consumer report shows that the consumer has not attained the age of 21, the consumer consents to the furnishing of such report.

(Sec. 303) Amends TILA to require approval by the jointly liable party to increase credit lines for accounts for which a parent, legal guardian, spouse of the consumer, or any other individual is jointly liable.

(Sec. 304) Requires an institution of higher education to disclose publicly any agreement made with a card issuer or creditor for the purpose of marketing a credit card.

Prohibits a card issuer or creditor from offering to a student at an institution of higher education any tangible item as inducement to participate in an open end consumer credit plan if such offer is made: (1) on or near the campus of the institution; or (2) at an event sponsored by or related to such institution.

Expresses the sense of Congress that each institution of higher education should consider adopting the following policies relating to credit cards: (1) that any card issuer that markets a credit card on the campus notify the institution of the location at which such marketing will take place; (2) that the number of locations on the campus at which the marketing of credit cards takes place be limited; and (3) that credit card and debt education and counseling sessions be offered as a regular part of any orientation program for new students.

(Sec. 305) Requires each creditor to submit an annual report to the Federal Reserve Board containing the terms and conditions of all business, marketing, and promotional agreements and college affinity card agreements with an institution of higher education, or with an affiliated or related alumni organization or foundation, with respect to any college student credit card issued to a college student at such institution.

Directs to the Federal Reserve Board to report to Congress, and make available to the public, on the information concerning credit card agreements submitted to it by each institution of higher education, alumni organization, or foundation.

Directs the Comptroller General to review and report to Congress about the mandatory reports submitted by creditors as well as their marketing practices to determine the impact that college affinity card agreements and college student card agreements have upon credit card debt.

Title IV: Gift Cards - (Sec. 401)

Amends the Electronic Fund Transfer Act to declare unlawful: (1) the imposition of a dormancy fee, an inactivity charge or fee, or a service fee with respect to a gift certificate, store gift card, or general-use

prepaid card; and (2) the sale or issuance of a gift certificate, store gift card, or general-use prepaid card that is subject to an expiration date.

Title V: Miscellaneous Provisions - (Sec. 501)

Instructs the Comptroller General to study and report to Congress on use of credit by consumers, interchange fees, and their effects on consumers and merchants.

(Sec. 502) Directs the Federal Reserve Board to review biennially and report to Congress on specified aspects of the consumer credit card market.

Directs the federal banking agencies and the Federal Trade Commission (FTC) to report annually to the Federal Reserve Board, for inclusion in its annual report to Congress, on their regulatory activities regarding credit card issuer compliance with federal consumer protection statutes and regulations.

(Sec. 503) Directs the Secretary of the Treasury to issue regulations implementing the Bank Secrecy Act regarding the sale, issuance, redemption, or international transport of stored value, including stored value cards.

(Sec. 504) Amends TILA to direct the Federal Reserve Board to prescribe regulations to require creditors to establish procedures to ensure that any administrator of the estate of any deceased obligor can resolve outstanding credit balances of the estate in a timely manner.

(Sec. 505) Directs the Federal Reserve Board to report to certain congressional committees on the extent to which creditors have reduced credit limits or raised interest rates applicable to credit card accounts based on specified factors, including the geographical location of a credit transaction, the identity of the merchant involved, the consumer's credit transactions, and the identity of a consumer's mortgage creditor.

(Sec. 506)
Directs the Federal Reserve Board to review and report to Congress on:
(1) the use of credit cards by small businesses with not more than 50 employees; and (2) the credit card market for such businesses.

(Sec. 507) Directs Administrator of the Small Business Administration (SBA), in conjunction with the Secretary of Homeland Security, to establish the Small Business Information Security Task Force to: (1) address the information technology security needs of small business concerns; and (2) help them prevent the loss of credit card data.

Requires the task force to make recommendations to the SBA Administrator about establishment of an Internet website to receive and dispense information and resources with respect to: (1) the information technology security needs of small business concerns; and (2) the programs and services provided by the federal government, state governments, and nongovernment organizations (NGOs) that serve those needs.

Requires the task force to make recommendations also relating to developing additional education materials and programs with respect to information technology security needs.

Authorizes appropriations for FY2020-2013.

(Sec. 508) Directs the FTC to study and report to Congress on the cost-effectiveness of making technology available at an automated teller machines (ATM) that enables a consumer under duress to alert a local law enforcement agency electronically that an incident is taking place at the ATM.

(Sec. 509) Directs the Comptroller General to study and report to Congress on the terms, conditions, marketing, and value to consumers of products marketed in conjunction with credit card offers.

(Sec. 510) Directs the Secretary of Education and the Director of the Office of Financial Education of the Department of the Treasury to coordinate with the President's Advisory Council on Financial Literacy to report to Congress on: (1) their evaluation and compilation of a comprehensive summary of existing federal financial and economic literacy education programs; and (2) development of a strategic plan to improve and expand financial and economic literacy education.

(Sec. 511) Amends the Omnibus Appropriations Act, 2009 to direct the FTC to initiate a rulemaking on unfair or deceptive acts or practices with respect to mortgage loans, loan modification, and foreclosure rescue services.

Denies the FTC authority to promulgate a rule regarding an entity that is not subject to its enforcement powers.

Authorizes

a state, as *parens patriae*, to bring a civil action on behalf of its residents if the state attorney general believes that an interest of state residents is threatened or adversely affected by action of any person subject to an FTC-prescribed rule in a practice that violates such rule.

(Sec. 512) Prohibits the Secretary of the Interior from promulgating or enforcing any regulation that prohibits an individual from possessing a firearm, including an assembled or functional firearm, in any unit of the National Park System (NPS) or the National Wildlife Refuge System (NWRS) if: (1) the individual is not otherwise prohibited by law from possessing the firearm; and (2) the possession of the firearm complies with the law of the state in which the NPS or NWRS unit is located.

(Sec. 513) Requires the Comptroller General to study and report to Congress on: (1) the relationship between fluency in the English language and financial literacy; and (2) any extent to which individuals whose native language is a language other than English are impeded in their conduct of their financial affairs.

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